

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

MLADEN PECANAC,

Petitioner,

vs.

JACK PALMER, *et al.*,

Respondents.

Case No. 3:06-CV-0218-LRH-VPC

**SCHEDULING ORDER**

The Court previously entered an order appointing counsel for petitioner. Counsel has now entered an appearance on petitioner's behalf. Petitioner's counsel is Debra Bookout, Assistant Federal Public Defender, 411 East Bonneville Ave., Suite 250, Las Vegas, Nevada 89101, 702-388-6577.

Counsel has also entered an appearance on respondents' behalf. Respondents' counsel is Erik A. Levin, Deputy Attorney General, Criminal Justice Division, 100 North Carson Street, Carson City, Nevada 89701-4717, 775-684-1271.

Petitioner and his counsel should pay very close attention to the effect of the one-year statute of limitations applicable to federal habeas corpus petitions pursuant to 28 U.S.C. §2244(d)(1) (part of the Antiterrorism and Effective Death Penalty Act (AEDPA)). In addition, petitioner and his counsel should be aware of the holdings in *Duncan v. Walker*, 533 U.S. 167 (2001), and *Fail v. Hubbard*, 315 F.3d 1059 (9th Cir. 2002). The practical effect of *Duncan* and *Fail* is that the one-year limitations period applicable to all federal habeas corpus petitions will generally not be tolled during the pendency of a federal habeas corpus petition. This means that any subsequent habeas corpus petition filed in this Court -- for example, a petition filed after returning to state court to exhaust any unexhausted claims -- may

1 be untimely under the applicable statute of limitations, and the time during which this habeas corpus case  
2 is pending will not toll or otherwise excuse compliance with that statute.

3 It is appropriate at this time for the Court to enter orders regarding scheduling in this case.

4 **IT IS THEREFORE ORDERED** that counsel for petitioner shall contact petitioner as soon as  
5 reasonably possible to:(a) review the procedures applicable in cases under 28 U.S.C. §2254; (b) discuss  
6 and explore with petitioner, as fully as possible, the potential grounds for habeas corpus relief in  
7 petitioner's case; and (c) advise petitioner that all possible grounds for habeas corpus relief must be  
8 raised at this time in this case, and that the failure to do so will likely result in the omitted grounds being  
9 barred from future review under the rules regarding abuse of the writ.

10 **IT IS FURTHER ORDERED** that counsel for petitioner shall file and serve a First Amended  
11 Petition for Writ of Habeas Corpus within **sixty (60) days** of the entry of this Order. The First Amended  
12 Petition shall include all known grounds for relief (both exhausted and unexhausted). Respondents shall  
13 have **forty-five (45) days** after service of the First Amended Petition within which to answer or  
14 otherwise respond to the First Amended Petition.

15 Dated this 7<sup>th</sup> day of July, 2006.



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18 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE